



Alliance of the Ports of Canada, the Caribbean, Latin America and the United States

**AMERICAN ASSOCIATION OF PORT AUTHORITIES**

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**Testimony of Kurt Nagle**

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**Before the**

**House Transportation and Infrastructure Committee**

**Subcommittee on Coast Guard and Maritime Transportation**

**MARCH 9, 2006**

Good morning. I am Kurt Nagle, President and CEO of the American Association of Port Authorities (AAPA). I thank you for inviting us to testify before your Committee on the implementation of the Maritime Transportation Security Act (MTSA) and areas where additional efforts are needed to meet the objectives of this law. AAPA is an alliance of the leading public ports in the Western Hemisphere and our testimony today reflects the views of our U.S. members.

Enhancing maritime security and protecting America's seaports from acts of terrorism and other federal crimes is a top priority for AAPA and U.S. port authorities. Much has been done since 9/11, but more is needed. Protecting America's ports is critical to our nation's economic growth and vitality, and is an integral part of homeland defense. Ports handle 99% of our overseas cargo by volume, enable the deployment of our military, and serve as departure points for millions of cruise passengers each year.

Protecting our international seaport borders is a responsibility shared by the federal, state, and local governments, public port authorities and private industry. The Department of Homeland Security takes the lead in protecting America's ports. This includes programs of the U.S. Coast Guard, Customs and Border Protection, Immigration, and Transportation Security Administration. Port authorities, for their part, focus on protecting the facilities where this international cargo enters and exits the country, including partnering with their tenants. The security blueprint for these facilities is the Maritime Transportation Security Act, which your Committee established, and which AAPA worked closely with you to enact.

Let me begin with some comments on the proposed DP World acquisition of P&O Ports. In reviewing a transaction of this type, it is the appropriate role of the federal government to determine if there are national security concerns with any proposed business arrangement involving non-US interests, whether that involves port operations or any other business. There should be is a rigorous process to appropriately consider and resolve those questions.

AAPA believes that the current 45-day process underway regarding the Dubai Ports World's acquisition of P & O Ports should be allowed to run its course prior to Congress taking any action either on this proposed arrangement, or on any blanket prohibition against a foreign government affiliated company from providing terminal operating services at U.S. ports.

With regard to individual business arrangements, public port authorities often have leases with terminal operating companies to operate port-owned facilities. Those leases typically provide that any assignment of a lease to a successor company, in the event of a merger or acquisition, must be approved by the port authority. Leases generally cannot be transferred or assigned without permission.

The recent focus on port security has made many question what else this country needs to do to secure our ports. My testimony today will focus on three areas where AAPA believes this country needs to make progress related to port security: 1) The Port Security Grant Program, 2)

The Transportation Worker Identification Credential (TWIC), and 3) Adequate resources for federal agencies responsible for port security.

## **THE PORT SECURITY GRANT PROGRAM**

Soon after September 11, Congress established the Port Security Grant program to provide much-needed help to port facilities to harden security to protect these vital ports of entry from acts of terrorism. The program has been authorized in several bills – the MTSA and Coast Guard reauthorization bill of 2004 – but it is only in the next round of grants (FY’06) that the program will mirror the authorization bills.

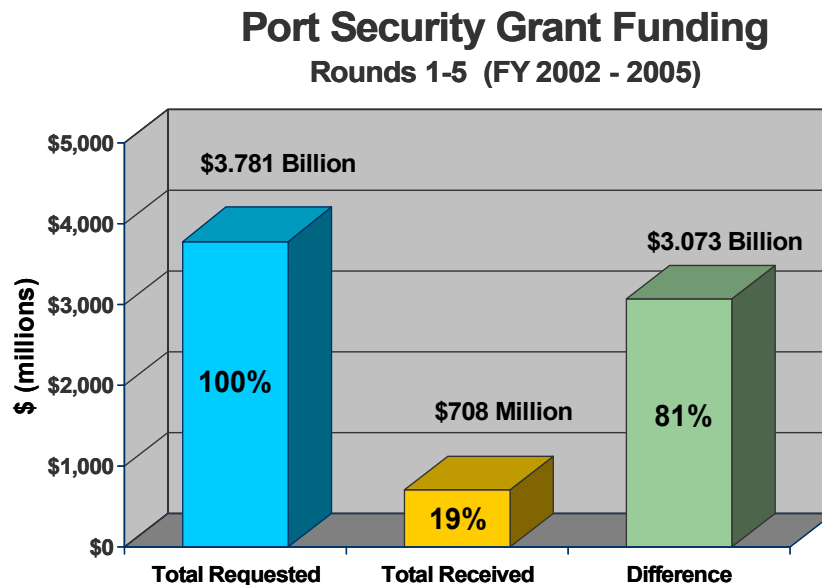
While there are a number of federal cargo security programs, this is the only program only that is focused on providing federal financial assistance for port facility security.

While the program has provided much-needed funding, it still had several problems:

- 1) An inadequate amount of funding;
- 2) Limits on eligibility;
- 3) The Administration’s proposals to lump port security into a larger Transportation Infrastructure Protection (TIP Program); and
- 4) Slow release of the funding by the Department of Homeland Security (DHS).

Let me begin with the funding level. From its inception, the PSG program has been dramatically under-funded. While billions of homeland security dollars have been allocated to airports, first responders, and research and development, only a modest amount has been made available for port facility security improvements. For FY’06, DHS has stated that it is proposing \$3.1 billion for port security, but last year’s funding level for the Port Security Grant program was only \$175 million. To date, DHS has given out \$700 million in port security grants, but this is less than 20% of the grant requests, which totaled \$3.8 billion (see chart below). AAPA recommends an annual funding level of \$400 million for this program.

Since September 11, ports have spent millions of dollars of their own funds on port security. Ports have spent money on personnel and operations and maintenance of these expensive security systems, in addition to paying for security upgrades that the federal program did not pay for. However, more needs to be done. We have a good start and baseline, but we must continue our progress. Trade is growing exponentially and many port facilities are planning port expansion projects in response. Limited port security funds have placed large burdens on ports as security programs compete with funds required for general maintenance of facilities, channel dredging and port expansion projects. The biggest impact of funding limitations, however, is a delay in making security enhancements. Limited funds, mean slower progress.



This low level of annual funding has resulted in DHS limiting the eligibility of the program. AAPA is strongly opposed to this policy. Last year DHS decided to limit eligibility to 66 seaports based in part on the volume of cargo they handle. Half of our Association's membership was no longer eligible to apply. While we support a risk-based system, we believe that each port facility that must meet the requirements of the MTSA should be able to apply and make its case for assistance. We also are concerned that limits on eligibility might leave a class of perceived under protected ports. The MTSA states that the grants should be issued in a fair and equitable way. AAPA believes strongly that all facilities that are subject to the MTSA should be eligible for the grants, as was the case for the first four rounds.

The Administration also sought to eliminate the Port Security Grant program during the last two years by lumping port security into a Targeted Infrastructure Protection Program. Ports would have to compete for limited funds with domestic security grants such as intercity rail and bus security. This proposal was rejected by Congress last year, and we hope that Congress will continue its opposition. This is not the time to dilute the focus on port security. It should remain as a separate, dedicated program.

One final point on the grants: AAPA is concerned by DHS' slow pace in making the funds available. This delays the ability of ports to install security enhancements. For example, for FY'06, DHS opened the State Homeland Security grants in early December 2005, but we are still waiting for the Port Security Grants – nearly six months after the Appropriations bill became law.

## **IMPLEMENTATION OF THE TWIC**

The second priority for AAPA related to port security is quicker implementation of the Transportation Worker Identification Credential – the TWIC. The MTSA included a provision that DHS develop a program that requires all individuals who have unescorted access to a secure area of a port facility or vessel undergo a background check to ensure they do not pose a terrorist security risk. While TSA has undertaken several pilot projects, four years after this law was

enacted, we are still far from implementing a TWIC system nationwide. AAPA and its members are frustrated by the delays in beginning the regulatory process.

TSA must make some policy decision regarding who should get the card, what the background check encompasses, and what is entailed in the appeals process. These are all policy issues that are separate from the technology challenges that the program faces. Uncertainty regarding compatibility with the pending TWIC has also caused delays in port implementation of access control systems.

### **ADEQUATE RESOURCES FOR FEDERAL AGENCIES**

The final area AAPA believes should be a priority for port security is ensuring that adequate resources are available for the federal agencies with primary responsibility for port security. The U.S. Coast Guard and Customs and Border Protection are the two key agencies that need necessary resources to address port security. Both have done a great job to address these new challenges. Congress, however, needs to carefully evaluate whether the resources provided are adequate to do the job.

The U.S. Coast Guard, for example, is responsible for waterside security and needs more resources to focus on this area. With 361 seaports in the U.S., is Coast Guard able to adequately provide waterside security for all these facilities?

CBP also is involved in several programs to provide layered security for cargo flowing through ports. There are many challenges. Several GAO reports note that limits on staff size impact the effectiveness of the Container Security Initiatives and other cargo security programs. Projections on container and passenger volumes show a huge increase at seaports in the coming years. Congress must take a closer look at whether DHS has the inspection manpower to handle this growth and ensure our safety without negatively impacting efficiency.

## **CONCLUSION**

In conclusion, our nation has made great progress in enhancing port security since September 11, and we need to continue this progress. Three areas Congress can focus on are increasing funding for the Port Security Grant program, quicker implementation of TWIC, and providing adequate resources for federal agencies responsible for port security.

On behalf of the American Association of Port Authorities, I thank you for this opportunity to discuss port security and welcome any questions from the Committee.